



Raised by Defendants DMA Properties, Inc. and Longbranch Energy, LP's (collectively "Defendants") Outside the Scope of the Remand Order, it is the Court's Opinion that the Motion be **GRANTED**.

It is **HEREBY ORDERED** that Debtors' and Wright's Objection to an Issue Raised by Defendants Outside the Scope of the Remand Order is **SUSTAINED**, and the Court will not consider during trial or in its order on remand any reference by Defendants to Wright violating the Court's order and transferring the ROW to another entity he controls.

Dated: \_\_\_\_\_, 2024

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**Hon. Ronald B. King**  
**Chief United States Bankruptcy Judge**

## **I.** **BACKGROUND**

1. The District Court remanded this case instructing this Court to “consider the damage model presented to it in the first instance and other gains-based remedies pursued at trial.” Case 5:21-cv-00358-JKP [#40] at 38. There are no other issues before this Court.

2. Under the mandate rule, a “lower court on remand must implement both the letter and the spirit of the appellate court’s mandate and may not disregard the explicit directives of that court.” *United States v. Matthews*, 312 F.3d 652 ,657 (5th Cir. 2002)

3. In their Briefing on Remedies, Defendants argue Wright violated “this Court’s order and abruptly transfer[ed] the right-of-way to another entity he controls.” DMA and Longbranch’s Briefing on Remedies [#321] at 11. Defendants mistake the contractual obligations of the Fourth Amended Chapter 11 Plan with a court order. Chapter 11, Case No. 20-50805-rbk [#211] at 7. Defendants are compelled to file an adversary proceeding if they wish to adjudicate this matter. *In re Stratford of Texas, Inc.*, 635 F.2d 365, 368 (5th Cir. 1981) (finding that a plan of reorganization is akin to a contract between the debtor and its creditors); *In re Guardian Savs. & Loan Ass’n v. Arbors of Houston Assocs. Ltd Partnership (In re Arbors of Houston Assocs. Ltd. Partnership)*, 172 F.3d 47, 1999 WL 17649, \*3 (6th Cir. Jan 4, 1999) (holding that disputes over the meaning of a confirmed plan are settled by state contract law). As with their prior efforts to sanction Wright for not registering the ROW with the TRRC, Defendants have never pursued such claims. This is because they have been informed on multiple occasions, and once in open court, that Wright’s new entity, Express H20, LLC, intends to comply with all Obligations of the Fourth Amended Chapter 11 Plan. As such, Debtors and Wright object to any reference by Defendants to this subject matter as it is well outside the scope of the remand order.

4. Further, in their Reply Brief on Remedies, Defendants refer to a January 4, 2023, letter received from counsel for Wright and Express H2O Pipeline & ROW, regarding potential claims against DMA and Longbranch. DMA and Longbranch's Briefing on Remedies [#323] at 2. Defendants go on to accuse Wright of "bad faith" and having "no intention of respecting this Court's rulings, or, apparently, even its jurisdiction." *Id.* As referenced above, this is yet another effort by Defendants to besmirch Wright, and as above, Debtors and Wright object to any reference by Defendants to this subject matter as it is also outside the scope of the remand order.

WHEREFORE, PREMISES CONSIDERED, Debtors and Wright pray that this Court sustain their Objections to Issues Raised by Defendants DMA Properties, Inc. and Longbranch Energy, LP Outside Scope of Remand Order and for such further relief as the Court may deem them justly entitled.

Dated: January 29, 2024

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on all counsel of record by way of e-service through the CM/ECF system by notice of electronic filing or via email on the 29th day of January 2024:

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